

AMENDED IN SENATE MAY 4, 2000
AMENDED IN SENATE APRIL 25, 2000
AMENDED IN SENATE MARCH 30, 2000

SENATE BILL

No. 2161

Introduced by Senator Schiff

February 25, 2000

An act to ~~amend~~ *repeal* Section 1522.06 of the Health and Safety Code, to amend ~~Section 11105~~ *Sections 11105 and 13300* of the Penal Code, and to amend Sections 309 and 361.4 of, and to add Section 16504.5 to, the Welfare and Institutions Code, relating to children, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 2161, as amended, Schiff. Children: placement.

Existing law contains criminal record check requirements of applicants for a license, special permit, or certificate for a foster family home or certified family home, and other persons, including nonclients who reside in those homes and staff and employees.

Existing law, the California Community Care Facilities Act, authorizes, upon the adoption of a resolution by the board of supervisors of a county, a county child welfare agency to secure from municipal, county, or state law enforcement personnel the criminal record of certain persons through the California Law Enforcement Telecommunications System (CLETS) for purposes of the placement of a minor with a

relative, as defined. This authority was applicable until January 1, 2000.

~~This bill would delete the time limitations on the use of the system, thereby permitting a county child welfare department to use the system pursuant to these provisions indefinitely. The bill would redefine relative for purposes of these provisions~~ *latter provision.*

Existing law requires the Department of Justice to maintain state summary criminal history information and requires the department to furnish the information to specified persons, including probation officers. Existing law authorizes the board of supervisors to delegate to those persons within the county welfare department performing child welfare services the probation officer's right to access state summary criminal history information to carry out the department's duties concerning children reasonably believed to be abused and neglected.

Existing law similarly requires local criminal justice agencies to furnish local summary criminal history information to specified persons, including probation officers.

This bill would require the department *and local criminal justice agencies* to furnish the state summary criminal history information to county child welfare agency personnel who have been delegated the authority of county probation officers pursuant to these provisions. *By imposing additional duties on local officers and employees, the bill would create a state-mandated local program.*

~~Under existing provisions of the juvenile court law, if a child is not released to his or her parent or guardian, after being taken into temporary custody as the subject of alleged abuse or neglect, a social worker is required to initiate an emergency assessment of the suitability of any relative who is available and requests temporary placement of the child pending a detention hearing. The assessment process includes consideration of the results of a criminal records check.~~

~~This bill would require that a determination be made that the relative is able and willing to provide temporary placement for the child prior to the social worker initiating an emergency assessment of the suitability of the relative under this provision.~~



Existing law requires, whenever a child is placed in the home of a relative or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the court or the social worker to cause a criminal—~~record~~ records check to be conducted by an appropriate governmental agency through CLETS.

This bill would require the social worker to ensure that a fingerprint clearance check of the relative is ~~conducted~~ *initiated* and that the results of any criminal records are reviewed within 5 judicial days following the criminal records check. The bill would also provide that information from criminal history records provided pursuant to the bill shall be used only for purposes of the bill; and state that when an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Because this bill would expand the duties of social workers, it would impose a state-mandated local program.

Existing law provides for a public system of statewide child welfare services implemented through the State Department of Social Services and county welfare departments. Existing law provides that any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation is eligible for initial intake and evaluation of risk services.

This bill would specify the purposes for which a child welfare agency may secure from an appropriate governmental agency the ~~full~~ state summary criminal history information through CLETS. *The bill would also require law enforcement personnel to cooperate with these requests and to provide them in a timely manner. By imposing additional duties on local employees, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) The mission of the juvenile dependency system in
4 California is to provide children who have been subjected
5 to abuse or neglect with protection from further harm.

6 (b) County child welfare agencies are charged with
7 investigating allegations of abuse and neglect of children
8 and identifying temporary caretakers for children who
9 must be removed from their homes.

10 (c) In conducting child abuse investigations and
11 assessing the risk of placing children in out-of-home care,
12 child welfare agencies and the juvenile court must have
13 timely access to the complete criminal background
14 records of alleged perpetrators and prospective
15 caretakers.

16 (d) The state has established a clear goal that children
17 removed from their home be placed in the home of a
18 relative, whenever possible, in order to provide the child
19 with continuity and minimize any trauma that may be
20 caused by the removal. Existing law allows children to be
21 placed with relatives who are not licensed or certified
22 foster parents. However, child welfare agencies are
23 required to conduct an in-home visit and safety
24 assessment prior to placing a child in the home of a
25 relative.

26 (e) It is the intent of the Legislature in enacting this
27 act to do all of the following:

28 (1) Ensure the protection of children by authorizing
29 county child welfare agencies to have access to complete
30 criminal background information through the California
31 Law Enforcement—~~Tracking~~ *Telecommunications*
32 System (CLETS) in order to provide the instant
33 information these agencies require to carry out child



1 abuse investigations, relative placement assessments, and
2 searches for parents whose whereabouts are unknown.

3 (2) Ensure the highest possible level of information
4 accuracy by requiring that any criminal background
5 check conducted by county child welfare agencies
6 through CLETS be followed by a fingerprint-based
7 criminal background check within five judicial days.

8 ~~SEC. 2. Section 1522.06 of the Health and Safety Code~~
9 ~~is amended to read:~~

10 ~~1522.06. (a) Notwithstanding subdivision (k) of~~
11 ~~Section 1505, upon adoption of a resolution by the board~~
12 ~~of supervisors of a county, any county child welfare~~
13 ~~agency may secure from municipal, county or state law~~
14 ~~enforcement personnel a criminal record through the~~
15 ~~California Law Enforcement Telecommunications~~
16 ~~System or an automated mobile and fixed location~~
17 ~~fingerprint identification system for the purpose of~~
18 ~~assessing a relative agreeing to receive and care for a~~
19 ~~minor and any other adult person residing in the home of~~
20 ~~the relative before placing the minor in the relative's~~
21 ~~home. Law enforcement shall cooperate with requests for~~
22 ~~criminal records authorized by this section and shall~~
23 ~~provide the information to the requesting entity in a~~
24 ~~timely manner. Information from criminal history~~
25 ~~records provided pursuant to this section shall not be used~~
26 ~~for any purposes other than those specified in this section.~~
27 ~~When an agency obtains records obtained both on the~~
28 ~~basis of name checks and fingerprint checks, final~~
29 ~~placement decisions shall be based only on the records~~
30 ~~obtained pursuant to the fingerprint check.~~

31 ~~(b) Any law enforcement officer or person authorized~~
32 ~~by this section to receive the information who obtains the~~
33 ~~information in the record and knowingly provides the~~
34 ~~information to a person not authorized by law to receive~~
35 ~~the information is guilty of a misdemeanor as specified in~~
36 ~~Section 11142 of the Penal Code.~~

37 ~~(c) Nothing in this section shall preclude the relative~~
38 ~~or other person living in the relative's home from refuting~~
39 ~~any of the information obtained by law enforcement if~~

~~the individual believes the criminal record check revealed erroneous information.~~

~~(d) For purposes of this section, “relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “step,” “great,” “great-great,” or “grand” or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only an adult who is a grandparent, aunt, uncle, or sibling shall be given preferential consideration for the placement of the child.~~

~~SEC. 2. Section 1522.06 of the Health and Safety Code is repealed.~~

~~1522.06. (a) Notwithstanding subdivision (k) of Section 1505, upon adoption of a resolution by the board of supervisors of a county, any county child welfare agency may secure from municipal, county or state law enforcement personnel a criminal record through the California Law Enforcement Telecommunications System or an automated mobile and fixed location fingerprint identification system for the purpose of assessing a relative agreeing to receive and care for a minor and any other adult person residing in the home of the relative before placing the minor in the relative’s home. Law enforcement shall cooperate with requests for criminal records authorized by this section and shall provide the information to the requesting entity in a timely manner.~~

~~(b) Any law enforcement officer or person authorized by this section to receive the information who obtains the information in the record and knowingly provides the information to a person not authorized by law to receive the information is guilty of a misdemeanor as specified in Section 11142 of the Penal Code.~~

~~(c) Nothing in this section shall preclude the relative or other person living in the relative’s home from refuting any of the information obtained by law enforcement if the individual believes the criminal record check revealed erroneous information.~~

~~(d) Use of the California Law Enforcement Telecommunications System authorized by subdivision (a) shall not be applicable after January 1, 2000, or after an automated mobile and fixed location fingerprint identification system is available and accessible to a child welfare agency, whichever comes first.~~

~~(e) For purposes of this section, "relative" means an adult who is related to the child by blood or affinity, including a half sibling and those adults whose status is preceded by the words "step," "great," "great-great," or "grand" or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.~~

SEC. 3. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and if authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4.

(12) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of level 1 humane officers.

(16) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code ~~for the purpose of investigating allegations of child abuse or neglect pursuant to Section 11166.3 of, or Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of, Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code.~~ Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or

1 any entity, in fulfilling employment, certification, or
2 licensing duties, Chapter 1321 of the Statutes of 1974 and
3 of Section 432.7 of the Labor Code shall apply:

4 (1) Any public utility as defined in Section 216 of the
5 Public Utilities Code that operates a nuclear energy
6 facility when access is needed in order to assist in
7 employing persons to work at the facility, provided that,
8 if the Attorney General supplies the data, he or she shall
9 furnish a copy of the data to the person to whom the data
10 relates.

11 (2) To a peace officer of the state other than those
12 included in subdivision (b).

13 (3) To a peace officer of another country.

14 (4) To public officers (other than peace officers) of the
15 United States, other states, or possessions or territories of
16 the United States, provided that access to records similar
17 to state summary criminal history information is expressly
18 authorized by a statute of the United States, other states,
19 or possessions or territories of the United States if the
20 information is needed for the performance of their
21 official duties.

22 (5) To any person when disclosure is requested by a
23 probation, parole, or peace officer with the consent of the
24 subject of the state summary criminal history information
25 and for purposes of furthering the rehabilitation of the
26 subject.

27 (6) The courts of the United States, other states, or
28 territories or possessions of the United States.

29 (7) Peace officers of the United States, other states, or
30 territories or possessions of the United States.

31 (8) To any individual who is the subject of the record
32 requested if needed in conjunction with an application to
33 enter the United States or any foreign nation.

34 (9) Any public utility as defined in Section 216 of the
35 Public Utilities Code, if access is needed in order to assist
36 in employing current or prospective employees who in
37 the course of their employment may be seeking entrance
38 to private residences. The information provided shall be
39 limited to the record of convictions and any arrest for



1 which the person is released on bail or on his or her own
2 recognizance pending trial.

3 If the Attorney General supplies the data pursuant to
4 this paragraph, the Attorney General shall furnish a copy
5 of the data to the current or prospective employee to
6 whom the data relates.

7 Any information obtained from the state summary
8 criminal history is confidential and the receiving public
9 utility shall not disclose its contents, other than for the
10 purpose for which it was acquired. The state summary
11 criminal history information in the possession of the
12 public utility and all copies made from it shall be
13 destroyed not more than 30 days after employment or
14 promotion or transfer is denied or granted, except for
15 those cases where a current or prospective employee is
16 out on bail or on his or her own recognizance pending
17 trial, in which case the state summary criminal history
18 information and all copies shall be destroyed not more
19 than 30 days after the case is resolved.

20 A violation of this paragraph is a misdemeanor, and
21 shall give the current or prospective employee who is
22 injured by the violation a cause of action against the
23 public utility to recover damages proximately caused by
24 the violations. Any public utility's request for state
25 summary criminal history information for purposes of
26 employing current or prospective employees who may be
27 seeking entrance to private residences in the course of
28 their employment shall be deemed a "compelling need"
29 as required to be shown in this subdivision.

30 Nothing in this section shall be construed as imposing
31 any duty upon public utilities to request state summary
32 criminal history information on any current or
33 prospective employees.

34 (10) To any campus of the California State University
35 or the University of California, or any four-year college or
36 university accredited by a regional accreditation
37 organization approved by the United States Department
38 of Education, if needed in conjunction with an
39 application for admission by a convicted felon to any
40 special education program for convicted felons,

1 including, but not limited to, university alternatives and
2 halfway houses. Only conviction information shall be
3 furnished. The college or university may require the
4 convicted felon to be fingerprinted, and any inquiry to
5 the department under this section shall include the
6 convicted felon's fingerprints and any other information
7 specified by the department.

8 (d) Whenever an authorized request for state
9 summary criminal history information pertains to a
10 person whose fingerprints are on file with the
11 Department of Justice and the department has no
12 criminal history of that person, and the information is to
13 be used for employment, licensing, or certification
14 purposes, the fingerprint card accompanying the request
15 for information, if any, may be stamped "no criminal
16 record" and returned to the person or entity making the
17 request.

18 (e) Whenever state summary criminal history
19 information is furnished as the result of an application and
20 is to be used for employment, licensing, or certification
21 purposes, the Department of Justice may charge the
22 person or entity making the request a fee that it
23 determines to be sufficient to reimburse the department
24 for the cost of furnishing the information. In addition, the
25 Department of Justice may add a surcharge to the fee to
26 fund maintenance and improvements to the systems
27 from which the information is obtained. Notwithstanding
28 any other law, any person or entity required to pay a fee
29 to the department for information received under this
30 section may charge the applicant a fee sufficient to
31 reimburse the person or entity for this expense. All
32 moneys received by the department pursuant to this
33 section, Sections 11105.3 and 12054 of the Penal Code, and
34 Section 13588 of the Education Code shall be deposited in
35 a special account in the General Fund to be available for
36 expenditure by the department to offset costs incurred
37 pursuant to those sections and for maintenance and
38 improvements to the systems from which the information
39 is obtained upon appropriation by the Legislature.



(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

SEC. 3.5. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) “Local summary criminal history information” means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) “Local summary criminal history information” does not refer to records and data compiled by criminal

1 justice agencies other than that local agency, nor does it
2 refer to records of complaints to or investigations
3 conducted by, or records of intelligence information or
4 security procedures of, the local agency.

5 (3) “Local agency” means a local criminal justice
6 agency.

7 (b) A local agency shall furnish local summary
8 criminal history information to any of the following, when
9 needed in the course of their duties, provided that when
10 information is furnished to assist an agency, officer, or
11 official of state or local government, a public utility, or any
12 entity, in fulfilling employment, certification, or licensing
13 duties, Chapter 1321 of the Statutes of 1974 and Section
14 432.7 of the Labor Code shall apply:

15 (1) The courts of the state.

16 (2) Peace officers of the state, as defined in Section
17 830.1, subdivisions (a) and (d) of Section 830.2,
18 subdivisions (a), (b), and (j) of Section 830.3, and
19 subdivisions (a), (b), and (c) of Section 830.5.

20 (3) District attorneys of the state.

21 (4) Prosecuting city attorneys of any city within the
22 state.

23 (5) Probation officers of the state.

24 (6) Parole officers of the state.

25 (7) A public defender or attorney of record when
26 representing a person in proceedings upon a petition for
27 a certificate of rehabilitation and pardon pursuant to
28 Section 4852.08.

29 (8) A public defender or attorney of record when
30 representing a person in a criminal case and when
31 authorized access by statutory or decisional law.

32 (9) Any agency, officer, or official of the state when the
33 local summary criminal history information is required to
34 implement a statute, regulation, or ordinance that
35 expressly refers to specific criminal conduct applicable to
36 the subject person of the local summary criminal history
37 information, and contains requirements or exclusions, or
38 both, expressly based upon the specified criminal
39 conduct.

1 (10) Any city, county, city and county, or district, or
2 any officer or official thereof, when access is needed in
3 order to assist the agency, officer, or official in fulfilling
4 employment, certification, or licensing duties, and when
5 the access is specifically authorized by the city council,
6 board of supervisors, or governing board of the city,
7 county, or district when the local summary criminal
8 history information is required to implement a statute,
9 regulation, or ordinance that expressly refers to specific
10 criminal conduct applicable to the subject person of the
11 local summary criminal history information, and contains
12 requirements or exclusions, or both, expressly based upon
13 the specified criminal conduct.

14 (11) The subject of the local summary criminal history
15 information.

16 (12) Any person or entity when access is expressly
17 authorized by statute when the local summary criminal
18 history information is required to implement a statute,
19 regulation, or ordinance that expressly refers to specific
20 criminal conduct applicable to the subject person of the
21 local summary criminal history information, and contains
22 requirements or exclusions, or both, expressly based upon
23 the specified criminal conduct.

24 (13) Any managing or supervising correctional officer
25 of a county jail or other county correctional facility.

26 (14) *County child welfare agency personnel who have*
27 *been delegated the authority of county probation officers*
28 *to access state summary criminal information pursuant to*
29 *Section 272 of the Welfare and Institutions Code for the*
30 *purposes specified in Section 16504.5 of the Welfare and*
31 *Institutions Code.*

32 (c) The local agency may furnish local summary
33 criminal history information, upon a showing of a
34 compelling need, to any of the following, provided that
35 when information is furnished to assist an agency, officer,
36 or official of state or local government, a public utility, or
37 any entity, in fulfilling employment, certification, or
38 licensing duties, Chapter 1321 of the Statutes of 1974 and
39 Section 432.7 of the Labor Code shall apply:

1 (1) Any public utility, as defined in Section 216 of the
2 Public Utilities Code, which operates a nuclear energy
3 facility when access is needed to assist in employing
4 persons to work at the facility, provided that, if the local
5 agency supplies the information, it shall furnish a copy of
6 this information to the person to whom the information
7 relates.

8 (2) To a peace officer of the state other than those
9 included in subdivision (b).

10 (3) To a peace officer of another country.

11 (4) To public officers, other than peace officers, of the
12 United States, other states, or possessions or territories of
13 the United States, provided that access to records similar
14 to local summary criminal history information is expressly
15 authorized by a statute of the United States, other states,
16 or possessions or territories of the United States when this
17 information is needed for the performance of their
18 official duties.

19 (5) To any person when disclosure is requested by a
20 probation, parole, or peace officer with the consent of the
21 subject of the local summary criminal history information
22 and for purposes of furthering the rehabilitation of the
23 subject.

24 (6) The courts of the United States, other states, or
25 territories or possessions of the United States.

26 (7) Peace officers of the United States, other states, or
27 territories or possessions of the United States.

28 (8) To any individual who is the subject of the record
29 requested when needed in conjunction with an
30 application to enter the United States or any foreign
31 nation.

32 (9) Any public utility, as defined in Section 216 of the
33 Public Utilities Code, when access is needed to assist in
34 employing persons who will be seeking entrance to
35 private residences in the course of their employment.
36 The information provided shall be limited to the record
37 of convictions and any arrest for which the person is
38 released on bail or on his or her own recognizance
39 pending trial.

1 If the local agency supplies the information pursuant to
2 this paragraph, it shall furnish a copy of the information
3 to the person to whom the information relates.

4 Any information obtained from the local summary
5 criminal history is confidential and the receiving public
6 utility shall not disclose its contents, other than for the
7 purpose for which it was acquired. The local summary
8 criminal history information in the possession of the
9 public utility and all copies made from it shall be
10 destroyed 30 days after employment is denied or granted,
11 including any appeal periods, except for those cases
12 where an employee or applicant is out on bail or on his or
13 her own recognizance pending trial, in which case the
14 state summary criminal history information and all copies
15 shall be destroyed 30 days after the case is resolved,
16 including any appeal periods.

17 A violation of any of the provisions of this paragraph is
18 a misdemeanor, and shall give the employee or applicant
19 who is injured by the violation a cause of action against
20 the public utility to recover damages proximately caused
21 by the violation.

22 Nothing in this section shall be construed as imposing
23 any duty upon public utilities to request local summary
24 criminal history information on any current or
25 prospective employee.

26 Seeking entrance to private residences in the course of
27 employment shall be deemed a “compelling need” as
28 required to be shown in this subdivision.

29 (10) Any city, county, city and county, or district, or
30 any officer or official thereof, if a written request is made
31 to a local law enforcement agency and the information is
32 needed to assist in the screening of a prospective
33 concessionaire, and any affiliate or associate thereof, as
34 these terms are defined in subdivision (k) of Section 432.7
35 of the Labor Code, for the purposes of consenting to, or
36 approving of, the prospective concessionaire’s
37 application for, or acquisition of, any beneficial interest in
38 a concession, lease, or other property interest.

39 Any local government’s request for local summary
40 criminal history information for purposes of screening a

1 prospective concessionaire and their affiliates or
2 associates before approving or denying an application for,
3 or acquisition of, any beneficial interest in a concession,
4 lease, or other property interest is deemed a “compelling
5 need” as required by this subdivision. However, only local
6 summary criminal history information pertaining to
7 criminal convictions may be obtained pursuant to this
8 paragraph.

9 Any information obtained from the local summary
10 criminal history is confidential and the receiving local
11 government shall not disclose its contents, other than for
12 the purpose for which it was acquired. The local summary
13 criminal history information in the possession of the local
14 government and all copies made from it shall be
15 destroyed not more than 30 days after the local
16 government’s final decision to grant or deny consent to,
17 or approval of, the prospective concessionaire’s
18 application for, or acquisition of, a beneficial interest in a
19 concession, lease, or other property interest. Nothing in
20 this section shall be construed as imposing any duty upon
21 a local government, or any officer or official thereof, to
22 request local summary criminal history information on
23 any current or prospective concessionaire or their
24 affiliates or associates.

25 (d) Whenever an authorized request for local
26 summary criminal history information pertains to a
27 person whose fingerprints are on file with the local
28 agency and the local agency has no criminal history of
29 that person, and the information is to be used for
30 employment, licensing, or certification purposes, the
31 fingerprint card accompanying the request for
32 information, if any, may be stamped “no criminal record”
33 and returned to the person or entity making the request.

34 (e) A local agency taking fingerprints of a person who
35 is an applicant for licensing, employment, or certification
36 may charge a fee not to exceed ten dollars (\$10) to cover
37 the cost of taking the fingerprints and processing the
38 required documents.

39 (f) Whenever local summary criminal history
40 information furnished pursuant to this section is to be

1 used for employment, licensing, or certification purposes,
2 the local agency shall charge the person or entity making
3 the request a fee which it determines to be sufficient to
4 reimburse the local agency for the cost of furnishing the
5 information, provided that no fee shall be charged to any
6 public law enforcement agency for local summary
7 criminal history information furnished to assist it in
8 employing, licensing, or certifying a person who is
9 applying for employment with the agency as a peace
10 officer or criminal investigator. Any state agency
11 required to pay a fee to the local agency for information
12 received under this section may charge the applicant a
13 fee sufficient to reimburse the agency for the expense.

14 (g) Whenever there is a conflict, the processing of
15 criminal fingerprints shall take priority over the
16 processing of applicant fingerprints.

17 (h) It is not a violation of this article to disseminate
18 statistical or research information obtained from a record,
19 provided that the identity of the subject of the record is
20 not disclosed.

21 (i) It is not a violation of this article to include
22 information obtained from a record in (1) a transcript or
23 record of a judicial or administrative proceeding or (2)
24 any other public record when the inclusion of the
25 information in the public record is authorized by a court,
26 statute, or decisional law.

27 (j) Notwithstanding any other law, the Department of
28 Justice or any state or local law enforcement agency may
29 require the submission of fingerprints for the purpose of
30 conducting summary criminal history information record
31 checks which are authorized by law.

32 (k) Any local criminal justice agency may release,
33 within five years of the arrest, information concerning an
34 arrest or detention of a peace officer or applicant for a
35 position as a peace officer, as defined in Section 830,
36 which did not result in conviction, and for which the
37 person did not complete a postarrest diversion program
38 or a deferred entry of judgment program, to a
39 government agency employer of that peace officer or
40 applicant.

1 (l) Any local criminal justice agency may release
2 information concerning an arrest of a peace officer or
3 applicant for a position as a peace officer, as defined in
4 Section 830, which did not result in conviction but for
5 which the person completed a postarrest diversion
6 program or a deferred entry of judgment program, or
7 information concerning a referral to and participation in
8 any postarrest diversion program or a deferred entry of
9 judgment program to a government agency employer of
10 that peace officer or applicant.

11 (m) Notwithstanding subdivision (k) or (l), a local
12 criminal justice agency shall not release information
13 under the following circumstances:

14 (1) Information concerning an arrest for which
15 diversion or a deferred entry of judgment program has
16 been ordered without attempting to determine whether
17 diversion or a deferred entry of judgment program has
18 been successfully completed.

19 (2) Information concerning an arrest or detention
20 followed by a dismissal or release without attempting to
21 determine whether the individual was exonerated.

22 (3) Information concerning an arrest without a
23 disposition without attempting to determine whether
24 diversion has been successfully completed or the
25 individual was exonerated.

26 SEC. 4. Section 309 of the Welfare and Institutions
27 Code is amended to read:

28 309. (a) Upon delivery to the social worker of a child
29 who has been taken into temporary custody under this
30 article, the social worker shall immediately investigate
31 the circumstances of the child and the facts surrounding
32 the child's being taken into custody and attempt to
33 maintain the child with the child's family through the
34 provision of services. The social worker shall immediately
35 release the child to the custody of the child's parent,
36 guardian, or responsible relative unless one or more of the
37 following conditions exist:

38 (1) The child has no parent, guardian, or responsible
39 relative; or the child's parent, guardian, or responsible
40 relative is not willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in his or her home or the home of a responsible relative.

(3) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court.

(4) The child has left a placement in which he or she was placed by the juvenile court.

(b) In any case in which there is reasonable cause for believing that a child who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in Section 300, the child shall be deemed to have been taken into temporary custody and delivered to the social worker for the purposes of this chapter while the child is at the office of the physician or surgeon or the medical facility.

(c) If the child is not released to his or her parent or guardian, the child shall be deemed detained for purposes of this chapter.

~~(d) The child may be detained in the home of a relative if~~

~~(d) If an able and willing relative, as defined in Section 319, is available and requests temporary placement of the child pending the detention hearing. Upon a determination that the relative is able and willing to provide temporary placement for the child, the social, the social~~ worker shall initiate an emergency assessment of the relative's suitability, which shall include an in-home visit to assess the safety of the home and the ability of the relative to care for the child on a temporary basis, and a consideration of the results of a criminal records check conducted by an appropriate governmental agency through the California Law Enforcement Telecommunications System pursuant to Section ~~1522.06~~ ~~of the Health and Safety Code 16504.5~~ and allegations of prior child abuse or neglect concerning the relative and other adults in the home. The results of the assessment

1 shall be provided to the court in the social worker's report
2 as required by Section 319. Within five judicial days
3 following the criminal records check conducted through
4 the California Law Enforcement Telecommunications
5 System, the social worker shall ensure that a fingerprint
6 clearance check of the relative ~~is conducted~~ and any
7 other person whose criminal record was obtained
8 pursuant to subdivision (b) of Section 361.4 is initiated
9 and shall review the results of any criminal records check
10 to assess the safety of the home.

11 SEC. 5. Section 361.4 of the Welfare and Institutions
12 Code is amended to read:

13 361.4. (a) Prior to placing a child in the home of a
14 relative, or the home of any prospective guardian or other
15 person who is not a licensed or certified foster parent, the
16 county social worker shall visit the home to ascertain the
17 appropriateness of the placement.

18 (b) Whenever a child may be placed in the home of a
19 relative, or the home of any prospective guardian or other
20 person who is not a licensed or certified foster parent, the
21 court or county social worker placing the child shall cause
22 a criminal ~~record~~ records check to be conducted by an
23 appropriate governmental agency through the California
24 Law Enforcement Telecommunications System pursuant
25 to ~~Section 1522.06 of the Health and Safety Code. Within~~
26 ~~five judicial days following the criminal records check~~
27 ~~conducted through the California Law Enforcement~~
28 ~~Telecommunications System, the social worker shall~~
29 ~~ensure that a fingerprint clearance check of the relative~~
30 ~~is conducted and shall review the results of any criminal~~
31 ~~records to assess the safety of the home. The criminal~~
32 ~~record~~ to Section 16504.5. The criminal records check
33 shall be conducted with regard to all persons over the age
34 of 18 years living in the home, and on any other person
35 over the age of 18 years, other than professionals
36 providing professional services to the child, known to the
37 placing entity who may have significant contact with the
38 child, including any person who has a familial or intimate
39 relationship with any person living in the home. A
40 criminal ~~record~~ records check may be conducted

pursuant to this section on any person over the age of 14 years living in the home who the county social worker believes may have a criminal record. *Within five judicial days following the criminal records check conducted through the California Law Enforcement Telecommunications System, the social worker shall ensure that a fingerprint clearance check of the relative is initiated to ensure the accuracy of the criminal records check conducted through the California Law Enforcement Telecommunications System and shall review the results of any criminal records check to assess the safety of the home.*

(c) Whenever a child may be placed in the home of a relative, or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall cause a check of the Child Abuse Index pursuant to subdivision (a) of Section 11170 of the Penal Code to be requested from the Department of Justice. The Child Abuse Index check shall be conducted on all persons over the age of 18 years living in the home.

~~(d) If either the criminal records check or Child Abuse Index checks conducted pursuant to subdivisions (b) and (e) indicate that the person on whom the check was conducted may have a criminal record or may be a known or suspected child abuser, and the county social worker still intends to place a child in the home of the relative, prospective guardian, or other person who is not a licensed or certified foster parent, the county social worker shall cause a fingerprint clearance check to be conducted through the Department of Justice before placing a child in the home.~~

~~(1)~~

(d) (1) If the fingerprint clearance check indicates that the person has no criminal record, the county social worker and court may consider the home of the relative, prospective guardian, or other child who is not a licensed or certified foster parent for placement of a child.

(2) If the fingerprint clearance check indicates that the person has been convicted of a crime that would

1 preclude licensure under Section 1522 of the Health and
2 Safety Code, the child shall not be placed in the home.

3 (3) Upon request from a county, the Director of Social
4 Services may waive the application of this section
5 pursuant to standards established in paragraph (1) of
6 subdivision (g) of Section 1522 of the Health and Safety
7 Code. The director shall grant or deny the waiver within
8 14 days of receipt of the county's request.

9 (e) Nothing in this section shall preclude a county
10 from conducting a criminal background check that the
11 county is otherwise authorized to conduct using
12 fingerprints.

13 SEC. 6. Section 16504.5 is added to the Welfare and
14 Institutions Code, to read:

15 16504.5. (a) ~~Pursuant~~ *Notwithstanding any other*
16 *provision of law, pursuant* to subdivision (b) of Section
17 11105 of the Penal Code, a child welfare agency may
18 secure from an appropriate governmental agency the ~~full~~
19 state summary criminal history information, as defined in
20 subdivision (a) of Section 11105 of the Penal Code,
21 through the California Law Enforcement
22 Telecommunications System for the following purposes:

23 (1) To conduct an investigation pursuant to Section
24 11166.3 of the Penal Code or an investigation involving a
25 child in which the child is alleged to come within the
26 jurisdiction of the juvenile court under Section 300.

27 (2) To assess the appropriateness and safety of placing
28 a child who has been detained or is a dependent of the
29 court, in the home of a relative pursuant to Section
30 ~~1522.06 of the Health and Safety Code, or Section 309 or~~
31 ~~309 or~~ 361.4.

32 (3) To attempt to locate a parent or guardian pursuant
33 to Section 311 of a child who is the subject of dependency
34 court proceedings.

35 (b) Any time that a child welfare agency ~~causes a~~
36 *initiates* criminal background check ~~to be conducted~~
37 through the California Law Enforcement
38 Telecommunications System, the agency shall ensure
39 that a fingerprint check is initiated within five judicial
40 days of the check, unless the whereabouts of the subject

1 of the check are unknown or the subject of the check
2 refuses to submit to the fingerprint check. The
3 Department of Justice shall provide the requesting
4 agency a copy of all criminal history information
5 regarding an individual that it maintains pursuant to
6 subdivision (b) of Section 11105 of the Penal Code.

7 (c) *Law enforcement personnel shall cooperate with*
8 *requests for criminal history information authorized*
9 *pursuant to this section and shall provide the information*
10 *to the requesting entity in a timely manner.*

11 (d) *Any law enforcement officer or person authorized*
12 *by this section to receive the information who obtains the*
13 *information in the record and knowingly provides the*
14 *information to a person not authorized by law to receive*
15 *the information is guilty of a misdemeanor as specified in*
16 *Section 11142 of the Penal Code.*

17 (e) Information obtained pursuant to this section shall
18 not be used for any purposes other than those described
19 in subdivision (a).

20 (f) *Nothing in this section shall preclude a relative or*
21 *other person living in a relative's home from refuting any*
22 *of the information obtained by law enforcement if the*
23 *individual believes the criminal records check revealed*
24 *erroneous information.*

25 SEC. 7. No reimbursement is required by this act
26 pursuant to Section 6 of Article XIII B of the California
27 Constitution because the only costs that may be incurred
28 by a local agency or school district are the result of a
29 program for which legislative authority was requested by
30 that local agency or school district, within the meaning of
31 Section 17556 of the Government Code and Section 6 of
32 Article XIII B of the California Constitution.

33 SEC. 8. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or
35 safety within the meaning of Article IV of the
36 Constitution and shall go into immediate effect. The facts
37 constituting the necessity are:

38 In order that local child welfare agencies may secure,
39 as soon as possible, appropriate criminal record checks for
40 purposes of providing safe and timely placement

1 alternatives for minors who are the subject of alleged
2 abuse or neglect, it is necessary that this act take effect
3 immediately.

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